

REMARKS

In response to the Restriction Requirement dated March 21, 2008, Applicants respectfully submit the following to be filed in the above-identified application. The Examiner has requested an election of a single disclosed invention. The Examiner has identified the inventions as follows:

- Group I: Claims 1-8, drawn to an apparatus, classified in class 705, subclass 43.
- Group II: Claims 9-21, drawn to a method, classified in class 705, subclass 39.
- Group III: Claims 22-24, drawn to a method, classified in class 705, subclass 39.
- Group IV: Claims 25-28 and 30, drawn to a method, classified in class 705, subclass 39.
- Group V: Claims 29 and 31-34, drawn to a method, classified in class 705, subclass 39.

The Office Action further restricted Group II, claims 9-21, as being drawn to more than a single species. The Examiner has identified the species as follows:

- Species A: The species wherein the transaction storage device is a financial card as set forth in, for example, claim 12;
- Species B: The species wherein the transaction storage device is a SIM card as set forth in, for example, claim 13;
- Species C: The species wherein the transaction storage device is a smart card as set forth in, for example, claim 14.

Applicants hereby elect Group II, consisting of claims 9-21 and further elects Species A wherein the transaction storage device is a financial card as set forth in, for example, claim 12, with traverse. Thus, the Applicant hereby elects claims 9-12 and 15-21, which directed to a method for conducting an electronic financial transaction over a network using an ambiguous transaction device, and including receiving an electronic financial request, accessing a merchant account database, and associating the transaction with one of a plurality of merchant accounts, which election is made with traverse.

Applicants respectfully submit that the restriction requirement is improper because searching all claims in one application does not represent a “serious burden” on the Examiner. MPEP § 803 (“Restriction – When Proper”). In conducting a search for the elected Group II, the Examiner will necessarily need to search for the limitations present the claims of Group III through V as well, including the recited ambiguous transaction device conducting a financial transaction over a network involving a financial transaction request concerning a merchant account associated with a merchant account database by merchant identifying information. Although the recited limitations in Groups III through Group V are not necessarily identical with those recited in Group II, Applicants respectfully submit that they are sufficiently close in subject matter that searching Group III through Group V with Group II does not represent a serious burden, as required in section 803 of the MPEP, particularly given the relatively small number of pending claims. Notably, Group II through V are drawn to methods classified in the same class and subclass.

A similar argument can be made for the apparatus claims of Group I, since they are directed to ambiguous transaction device for conducting a financial transaction for a merchant having a merchant account and have the same classification of the claims of Group II through V. Accordingly, Applicants respectfully submits that the restriction requirement should be withdrawn, or at a minimum broadened to include all of the method claims (Group II through Group V).

An action on the merits of all the claims and a Notice of Allowance thereof are respectfully requested. In the event that the Examiner wishes to discuss any of the matters contemplated hereby, the Examiner is invited to initiate a telephone conversation with the undersigned.

Applicant’s election herein is made without prejudice. As noted by the Examiner, upon the allowance of a generic claim, Applicants will be entitled to consideration of claims to additional species that are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 C.F.R. § 1.141.

Thus, withdrawal of the Restriction Requirement is respectfully requested. In the event that the Examiner wishes to discuss any of the matters contemplated hereby, the Examiner is invited to initiate a telephone conversation with the undersigned.

Dated this 21st day of April 2008.

Respectfully submitted,

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